

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
BRYSON CITY DIVISION

UNITED STATES OF AMERICA	)	
Plaintiff,	)	
	)	
v.	)	CASE NO. 2:05CR000217
	)	(Financial Litigation Unit)
CALVIN WATTY DRIVER,	)	
Defendant,	)	
	)	
and	)	
	)	
EASTERN BAND OF CHEROKEE INDIANS,	)	
Garnishee.	)	

**ORDER OF CONTINUING GARNISHMENT**

This matter is before the Court on Answer of the Garnishee, Eastern Band of Cherokee Indians, ("Garnishee"), and Response of the United States.

The United States obtained a judgment against Driver on May 17, 2007, in the amount of \$5,292.64 which included a \$100.00 assessment and \$5,192.64 in restitution to a victim. Subsequently, the United States sought to garnish Driver's gaming *per capita* revenue. On October 9, 2008, the Court entered a Writ of Continuing Garnishment to the garnishee. The United States is entitled to garnishment and has satisfied the prerequisites set forth in 15 U.S.C. §1673.

The garnishee filed an Answer on January 15, 2010, stating that the United States is not entitled to garnishment rights due to two (2) Child Support Orders filed

in Cherokee Tribal Court and that *per capita* payments are exempt from any garnishment other than for child support or for debts owed to the Tribe.

**IT IS ORDERED** that the Answer of Garnishee to the extent it may be construed as a motion to quash the writ of garnishment, is hereby DENIED; and

**IT IS FURTHER ORDERED** that the Orders entered on May 3, 2006 and December 11, 2009, in the Cherokee Tribal Court for the defendant's child support obligations, will have priority over the writ of garnishment issued by this Court until such time as the child support obligation has expired; and

**IT IS FURTHER ORDERED** that an Order of Continuing Garnishment is hereby **ENTERED** in the amount of \$5,242.64 computed through September 29, 2008, which attaches to each *per capita* distribution of gaming revenues on account of the Defendant, subject to the priority of the child support obligation; and

**IT IS FURTHER ORDERED** that any *per capita* gaming revenue that exceeds the child support obligation shall be garnished in favor of the United States; and payments should be made payable to the United States Clerk of Court and mailed to the United States Clerk of Court, 401 West Trade Street, Charlotte, NC 28202.

In order to ensure that each payment is credited properly, the following should be included on each check: Court Number 2:05CR217, Defendant: Calvin Watty Driver.

Signed: February 22, 2010

A handwritten signature in black ink, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen  
United States District Judge

